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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BLAKE L. KIRVIN,

Defendant.

NO. CR24-019 RAJ

PLEA AGREEMENT

The United States, through United States Attorney Tessa M. Gorman and Assistant United States Attorney Sanaa Nagi of the Western District of Washington and Blake Kirvin and Blake Kirvin's attorney Corey Endo enter into the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure 11(c).

1. **Waiver of Indictment.** Defendant, having been advised of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the United States Attorney in an Information.

1 2. **The Charge.** Defendant, having been advised of the right to have this
2 matter tried before a jury, agrees to waive that right and enters a plea of guilty to the
3 charge of Felon in Possession of a Firearm, as charged in Count 1 of the Information, in
4 violation of Title 18, United States Code, Section 922(g)(1).

5 By entering a plea of guilty, Defendant hereby waives all objections to the form of
6 the charging document. Defendant further understands that before entering any guilty
7 plea, Defendant will be placed under oath. Any statement given by Defendant under oath
8 may be used by the United States in a prosecution for perjury or false statement.

9 3. **Elements of the Offense.** The elements of the offense of Felon in
10 Possession of a Firearm are as follows:

- 11 a. First, the defendant knowingly possessed a firearm;
- 12 b. Second, the firearm had been shipped from one state to another;
- 13 c. Third, at the time the defendant possessed the firearm, the defendant
14 had been convicted of a crime punishable by imprisonment for a
15 term exceeding one year; and
- 16 d. Fourth, at the time the defendant possessed the firearm, the
17 defendant knew he had been convicted of a crime punishable by
18 imprisonment for a term exceeding one year.

19 4. **The Penalties.** Defendant understands that the statutory penalties for the
20 offense of Felon in Possession of a Firearm are as follows: a maximum term of
21 imprisonment of up to 15 years, a fine of up to \$250,000, a period of supervision
22 following release from prison of up to 3 years, and a mandatory special assessment of
23 \$100 dollars. If a probationary sentence is imposed, the probation period can be for up to
24 five years.

25 Defendant understands that supervised release is a period of time following
26 imprisonment during which Defendant will be subject to certain restrictive conditions and
27 requirements. Defendant further understands that, if supervised release is imposed and

1 Defendant violates one or more of the conditions or requirements, Defendant could be
2 returned to prison for all or part of the term of supervised release that was originally
3 imposed. This could result in Defendant serving a total term of imprisonment greater
4 than the statutory maximum stated above.

5 Defendant understands that as a part of any sentence, in addition to any term of
6 imprisonment and/or fine that is imposed, the Court may order Defendant to pay
7 restitution to any victim of the offense, as required by law.

8 Defendant further understands that the consequences of pleading guilty may
9 include the forfeiture of certain property, either as a part of the sentence imposed by the
10 Court, or as a result of civil judicial or administrative process.

11 Defendant agrees that any monetary penalty the Court imposes, including the
12 special assessment, fine, costs, or restitution, is due and payable immediately and further
13 agrees to submit a completed Financial Disclosure Statement as requested by the United
14 States Attorney's Office.

15 Defendant understands that, if pleading guilty to a felony drug offense, Defendant
16 will become ineligible for certain food stamp and Social Security benefits as directed by
17 Title 21, United States Code, Section 862a.

18 **5. Immigration Consequences.** Defendant recognizes that pleading guilty
19 may have consequences with respect to Defendant's immigration status if Defendant is
20 not a citizen of the United States. Under federal law, a broad range of crimes are grounds
21 for removal, and some offenses make removal from the United States presumptively
22 mandatory. Removal and other immigration consequences are the subject of a separate
23 proceeding, and Defendant understands that no one, including Defendant's attorney and
24 the Court, can predict with certainty the effect of a guilty plea on immigration status.
25 Defendant nevertheless affirms that Defendant wants to plead guilty regardless of any
26 immigration consequences that Defendant's guilty plea(s) may entail, even if the
27 consequence is Defendant's mandatory removal from the United States.

1 **6. Rights Waived by Pleading Guilty.** Defendant understands that by
2 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- 3 a. The right to plead not guilty and to persist in a plea of not guilty;
4 b. The right to a speedy and public trial before a jury of Defendant's
5 peers;
6 c. The right to the effective assistance of counsel at trial, including, if
7 Defendant could not afford an attorney, the right to have the Court appoint one for
8 Defendant;
9 d. The right to be presumed innocent until guilt has been established
10 beyond a reasonable doubt at trial;
11 e. The right to confront and cross-examine witnesses against Defendant
12 at trial;
13 f. The right to compel or subpoena witnesses to appear on Defendant's
14 behalf at trial;
15 g. The right to testify or to remain silent at trial, at which trial such
16 silence could not be used against Defendant; and
17 h. The right to appeal a finding of guilt or any pretrial rulings.

18 **7. United States Sentencing Guidelines.** Defendant understands and
19 acknowledges that the Court must consider the sentencing range calculated under the
20 United States Sentencing Guidelines and possible departures under the Sentencing
21 Guidelines together with the other factors set forth in Title 18, United States Code,
22 Section 3553(a), including: (1) the nature and circumstances of the offense(s); (2) the
23 history and characteristics of Defendant; (3) the need for the sentence to reflect the
24 seriousness of the offense(s), to promote respect for the law, and to provide just
25 punishment for the offense(s); (4) the need for the sentence to afford adequate deterrence
26 to criminal conduct; (5) the need for the sentence to protect the public from further
27 crimes of Defendant; (6) the need to provide Defendant with educational and vocational

1 training, medical care, or other correctional treatment in the most effective manner; (7)
 2 the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the
 3 need to avoid unwarranted sentence disparity among defendants involved in similar
 4 conduct who have similar records. Accordingly, Defendant understands and
 5 acknowledges that:

6 a. The Court will determine Defendant's Sentencing Guidelines range
 7 at the time of sentencing;

8 b. After consideration of the Sentencing Guidelines and the factors in
 9 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the
 10 maximum term authorized by law;

11 c. The Court is not bound by any recommendation regarding the
 12 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
 13 range offered by the parties or the United States Probation Department, or by any
 14 stipulations or agreements between the parties in this Plea Agreement; and

15 d. Defendant may not withdraw a guilty plea solely because of the
 16 sentence imposed by the Court.

17 8. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
 18 guaranteed what sentence the Court will impose.

19 9. **Statement of Facts.** The parties agree on the following facts. Defendant
 20 admits Defendant is guilty of the charged offense(s):

21 a. On April 11, 2023, in Kent, Washington, Blake Kirvin knowingly
 22 possessed a Glock 17 Gen4 semi-automatic pistol with serial number
 23 BGRX566. The pistol had an extended magazine capable of holding 31
 24 rounds. 26 rounds were in the magazine. Kirvin also knowingly
 25 possessed a black Ruger firearm magazine containing .22 caliber rounds
 26 and 11 loose .22 caliber rounds.
 27

- b. The Glock 17 Gen4 semi-automatic pistol described above was not manufactured in the State of Washington and had therefore travelled in interstate or foreign commerce prior to being possessed by Kirvin.
- c. Prior to the events described in the previous paragraphs, Blake Kirvin knew he had been convicted of the following felony crimes punishable by a term of imprisonment exceeding one year, and was accordingly prohibited from possessing a firearm:
 - i. *Felon in Possession of a Firearm*, CR21-002 RAJ, in the United States District Court for the Western District of Washington, on July 22, 2022.
 - ii. *Felon in Possession of a Firearm* (two counts), CR15-165 RAJ, in the United States District Court for the Western District of Washington, on December 4, 2015.
- d. The Glock 17 Gen4 semi-automatic pistol with serial number BGRX566 and all ammunition described above were involved in the charged offense.

The parties agree that the Court may consider additional facts contained in the Presentence Report (subject to standard objections by the parties) and/or that may be presented by the United States or Defendant at the time of sentencing, and that the factual statement contained herein is not intended to limit the facts that the parties may present to the Court at the time of sentencing.

10. **Sentencing Factors.** The parties agree that the following Sentencing Guidelines provisions apply to this case:

- a. A base offense level of 20, pursuant to USSG §2K2.1(4)(B);

The parties agree they are free to present arguments regarding the applicability of all other provisions of the United States Sentencing Guidelines. Defendant understands, however, that at the time of sentencing, the Court is free to reject these stipulated

1 adjustments, and is further free to apply additional downward or upward adjustments in
2 determining Defendant's Sentencing Guidelines range.

3 **11. Acceptance of Responsibility.** At sentencing, *if* the Court concludes
4 Defendant qualifies for a downward adjustment for acceptance of responsibility pursuant
5 to USSG § 3E1.1(a) and Defendant's offense level is 16 or greater, the United States will
6 make the motion necessary to permit the Court to decrease the total offense level by three
7 (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because Defendant has assisted the
8 United States by timely notifying the United States of Defendant's intention to plead
9 guilty, thereby permitting the United States to avoid preparing for trial and permitting the
10 Court to allocate its resources efficiently.

11 **12. Government's Sentencing Recommendation.** The United States agrees to
12 recommend a custodial sentence of no more than the low end of the United States
13 Sentencing Guidelines as calculated by the Court at the time of sentencing. Additionally,
14 the parties will jointly recommend revocation and a custodial sentence of 12 months for
15 the supervised release violations in CR21-002, to run concurrent to the sentence imposed
16 in this case. Defendant understands this recommendation is not binding on the Court and
17 the Court may reject the recommendation of the parties and may impose any term of
18 imprisonment up to the statutory maximum penalty authorized by law. Defendant further
19 understands that Defendant cannot withdraw a guilty plea simply because of the sentence
20 imposed by the Court. Except as otherwise provided in this Plea Agreement, the parties
21 are free to present arguments regarding any other aspect of sentencing.

22 **13. Forfeiture of Assets.** Defendant understands the forfeiture of property is
23 part of the sentence that must be imposed in this case.

24 Defendant agrees to forfeit to the United States immediately Defendant's right,
25 title, and interest in any firearms and ammunition involved in his commission of Felon in
26 Possession of a Firearm, as charged in Count 1 of the Information. This property is
27

1 subject to forfeiture pursuant to Title 18, United States Code, Section 924(d), by way of
 2 Title 28, United States Code, Section 2461(c), and includes but is not limited to:

3 a. One Glock 17 Gen4 semi-automatic pistol, bearing serial number
 4 BGRX566, and any associated ammunition, including but not limited to:

- 5 (1) Approximately 26 rounds of ammunition contained in an
 6 extended capacity magazine;
- 7 (2) Any ammunition contained in a black Ruger firearm magazine;
- 8 (3) Approximately 11 loose rounds of .22 caliber ammunition; and
- 9 (4) Any other associated ammunition.

10 Defendant agrees to fully assist the United States in the forfeiture of the above-
 11 described property and to take whatever steps are necessary to pass clear title to the
 12 United States, including but not limited to: surrendering title and executing any
 13 documents necessary to effectuate such forfeiture; assisting in bringing any assets located
 14 outside the United States within the jurisdiction of the United States; and taking whatever
 15 steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed,
 16 wasted, hidden, or otherwise made unavailable for forfeiture. Defendant agrees not to file
 17 a claim to any of the above-described property in any federal forfeiture proceeding,
 18 administrative or judicial, which may be or has been initiated, and agrees not to assist
 anyone else in making a claim to this property.

19 The United States reserves its right to proceed against any remaining property not
 20 identified in this Plea Agreement, including any firearms or ammunition involved in the
 21 commission of Felon in Possession of a Firearm, as charged in Count 1 of the
 22 Information.

23 14. **Abandonment of Contraband.** Defendant also agrees that, if any federal
 24 law enforcement agency seized any illegal contraband that was in Defendant's direct or
 25 indirect control, Defendant consents to the federal administrative disposition, official use,
 26 and/or destruction of that contraband.

1 15. **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
 2 the United States Attorney's Office for the Western District of Washington agrees not to
 3 prosecute Defendant for any additional offenses known to it as of the time of this Plea
 4 Agreement based upon evidence in its possession at this time, and that arise out of the
 5 conduct giving rise to this investigation. In this regard, Defendant recognizes the United
 6 States has agreed not to prosecute all of the criminal charges the evidence establishes
 7 were committed by Defendant solely because of the promises made by Defendant in this
 8 Plea Agreement. Defendant agrees, however, that for purposes of preparing the
 9 Presentence Report, the United States Attorney's Office will provide the United States
 10 Probation Office with evidence of all conduct committed by Defendant.

11 Defendant agrees that any charges to be dismissed before or at the time of
 12 sentencing were substantially justified in light of the evidence available to the United
 13 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant
 14 with a basis for any future claims under the "Hyde Amendment," Pub. L. No. 105-119
 15 (1997).

16 16. **Interdependence of Plea Agreements.** Defendant acknowledges that the
 17 United States has conditioned its willingness to enter into this Plea Agreement on (1) the
 18 Court's acceptance of the guilty plea and Plea Agreement by Defendant in King County
 19 Superior Court Case Number 22-1-01437-3 SEA, and (2) Defendant's admission to
 20 violations 1 – 3 in CR21-002. As a result, if Defendant fails to enter into, and plead
 21 guilty pursuant to the terms of, the respective Plea Agreements, or if the Defendant later
 22 seeks to withdraw either of the resulting guilty pleas, or deny the supervised release
 23 violation in CR21-002, the United States may, at its election, withdraw from either or
 24 both Plea Agreements. If the United States chooses to withdraw from this Plea
 25 Agreement under these circumstances, Defendant understands that the United States will
 26 seek an Indictment against the Defendant for all crimes for which the United States has
 27 sufficient evidence.

1 **17. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if
2 Defendant breaches this Plea Agreement: (a) the United States may withdraw from this
3 Plea Agreement and Defendant may be prosecuted for all offenses for which the United
4 States has evidence; (b) Defendant will not oppose any steps taken by the United States
5 to nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
6 Agreement; and (c) Defendant waives any objection to the re-institution of any charges
7 that previously were dismissed or any additional charges that had not been prosecuted.

8 Defendant further understands that if, after the date of this Plea Agreement,
9 Defendant should engage in illegal conduct, or conduct that violates any conditions of
10 release or the conditions of confinement (examples of which include, but are not limited
11 to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while
12 pending sentencing, and false statements to law enforcement agents, the Pretrial Services
13 Officer, Probation Officer, or Court), the United States is free under this Plea Agreement
14 to file additional charges against Defendant or to seek a sentence that takes such conduct
15 into consideration by requesting the Court to apply additional adjustments or
16 enhancements in its Sentencing Guidelines calculations in order to increase the applicable
17 advisory Guidelines range, and/or by seeking an upward departure or variance from the
18 calculated advisory Guidelines range. Under these circumstances, the United States is
19 free to seek such adjustments, enhancements, departures, and/or variances even if
20 otherwise precluded by the terms of the Plea Agreement.

21 **18. Waiver of Appellate Rights and Rights to Collateral Attacks.**
22 Defendant acknowledges that, by entering the guilty plea(s) required by this Plea
23 Agreement, Defendant waives all rights to appeal from Defendant's conviction, and any
24 pretrial rulings of the Court, and any rulings of the Court made prior to entry of the
25 judgment of conviction. Defendant further agrees that, provided the Court imposes a
26 custodial sentence that is within or below the Sentencing Guidelines range (or the
27

1 statutory mandatory minimum, if greater than the Guidelines range) as determined by the
2 Court at the time of sentencing, Defendant waives to the full extent of the law:

3 a. Any right conferred by Title 18, United States Code, Section 3742,
4 to challenge, on direct appeal, the sentence imposed by the Court, including any fine,
5 restitution order, probation or supervised release conditions, or forfeiture order (if
6 applicable); and

7 b. Any right to bring a collateral attack against the conviction and
8 sentence, including any restitution order imposed, except as it may relate to the
9 effectiveness of legal representation.

10 This waiver does not preclude Defendant from bringing an appropriate motion
11 pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or
12 the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

13 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
14 attacking (except as to effectiveness of legal representation) the conviction or sentence in
15 any way, the United States may prosecute Defendant for any counts, including those with
16 mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea
17 Agreement.


18 **19. Voluntariness of Plea.** Defendant agrees that Defendant has entered into
19 this Plea Agreement freely and voluntarily, and that no threats or promises were made to
20 induce Defendant to enter a plea of guilty other than the promises contained in this Plea
21 Agreement or set forth on the record at the change of plea hearing in this matter.

22 **20. Statute of Limitations.** In the event this Plea Agreement is not accepted
23 by the Court for any reason, or Defendant breaches any of the terms of this Plea
24 Agreement, the statute of limitations shall be deemed to have been tolled from the date of
25 the Plea Agreement to: (1) thirty (30) days following the date of non-acceptance of the
26 Plea Agreement by the Court; or (2) thirty (30) days following the date on which a breach
27

1 of the Plea Agreement by Defendant is discovered by the United States Attorney's
2 Office.

3 21. **Completeness of Plea Agreement.** The United States and Defendant
4 acknowledge that these terms constitute the entire Plea Agreement between the parties,
5 except as may be set forth on the record at the change of plea hearing in this matter. This
6 Plea Agreement binds only the United States Attorney's Office for the Western District
7 of Washington. It does not bind any other United States Attorney's Office or any other
8 office or agency of the United States, or any state or local prosecutor.

9 Dated this 30th day of January, 2024.

10
11 
12 BLAKE L. KIRVIN
13 Defendant

14 
15 COREY ENDO
16 Attorney for Defendant

17  for
18 THOMAS WOODS
19 Assistant United States Attorney

20 
21 SANAA NAGI
22 Assistant United States Attorney